IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No.10856 of 2004

Chairman/Secretary Krantiveer
(Bhagatsingh) Tatya Tope
Sahakari Griha Rachana
Sanstha Maryadit ..Petitioners

V/s

Shankar Ganpati Raut
and Ors. ... Respondents

Shri M.B.Baadkar for Petitioners

CORAM:S.A.BOBDE,J.

DATED:18th July 2005

P.C.:-

1. The Petitioner society has challenged the order of the Appellate Court refusing to condone the delay of 293 days in preferring an appeal. The Respondent had suid the society for mandatory injunction. According to the Respondent the Petitioner is not entitled to construct 6

polls around the well since that prevents him from using the well. He had also sought for a mandatory injunction against the Society for removing the polls.

2. This suit was apparently allowed to proceed exparte by the Petitioners Society and was eventually decided exparte on 9-8-1996. The Petitioners Society preferred an appeal some time in the year 2002 after a delay of 2093 days. The contention of the Applicants that their Advocate has not keeping them informed is disbelieved on the ground that they had several opportunities for making enquiries and in any case their conduct does not explain to condone inordinate delay. It is fairly accepted by the learned Counsel for the Petitioner that the Petitioner does not have any letter to demonstrate that they wrote to the Advocate to enquire about the progress of the case as alleged by them in para 5.

3. In the circumstances the Appellate Court has found no sufficient cause to condone the said delay. I see no reason to interfere with the impugned order.

4. Petition is, therefore, dismissed.

(S.A.BOBDE, J.)